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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Melissa Summerson,)	
)	No.
Plaintiff,)	
)	
vs.)	COMPLAINT
)	
City of Kingman,)	(Jury Trial Demanded)
)	
Defendant.)	

Plaintiff Melissa Summerson, by and through her counsel, alleges as follows:

1. Plaintiff Melissa Summerson ("Summerson") is an adult female residing in Kingman, Arizona.

2. Defendant City of Kingman ("the City") is a municipality in Arizona.

3. This action is brought pursuant to the Civil Rights Act of 1871, 42 U.S.C. § 1983, and the Court has jurisdiction over this case pursuant to 28 U.S.C. §§ 1331.

4. In April 1996, Summerson applied for a dispatcher/radio job in the City's Police Department. On her application, she verified that she had not been convicted of a felony in the previous seven years. The application did not ask whether Summerson was associated with any motorcycle clubs, outlaw motorcycle gangs, criminal street gangs, or other individuals who are associated with such organizations.

5. Despite a very thorough background interview, the interview did not inquire as to whether Summerson was associated with any motorcycle clubs, outlaw motorcycle gangs, criminal street gangs, or other individuals who are associated with such organizations.

1 6. After a thorough background investigation, in June 1996, Summerson
2 began her employment with the City as a Communications Specialist (Dispatcher) in the
3 City's Police Department.

4 7. At that time, Summerson signed the Oath of Office, swearing or affirming
5 that she "will support the Constitution of the United States and the Constitution of the
6 State of Arizona and its laws: that [she] will bear true faith and allegiance to the same,
7 and defend them against all enemies, foreign and domestic"

8 8. Summerson received her only evaluation by the Police Department in
9 April 1997. In that evaluation, Summerson was lauded for her professionalism and
10 integrity: "[Summerson] is the consummate professional in all her dealings, inter and
11 intra agency. She holds her position and responsibility to the Kingman Police
12 Department in high regard. Her veracity, sense of 'fair play' and highly ethical
13 approach to every task she undertakes; is a positive reflection on the Kingman Police
14 and Fire Departments. [Summerson] has always projected a positive, professional and
15 cooperative attitude to all her contacts."

16 9. In that evaluation, the evaluator acknowledged that "[Summerson's]
17 resolve and strength of character were evident during [a] very trying ordeal" in which
18 "She was the victim of sexual harassment. Her demeanor and composure during this
19 harrowing ordeal was admirable."

20 10. In summary, the evaluator concluded that "[Summerson] has, in the her
21 [sic] short tenure with the Kingman Police Department, garnered the trust, respect and
22 admiration of supervisors, peers and Officers alike. . . . [Summerson] is a rare find,
23 given today's [sic] labor pool: She is focused, committed, honest, loyal and highly
24 principled. She is destined for great things."

25 11. In October 1997, Summerson transferred from the Police Department to a
26 Customer Service Representative position in the City's Financial Services Department.

27 12. In October 1998, Summerson accepted a promotion to Customer Service
28 Officer in the Financial Services Department.

1 13. In December 1999, Summerson married her current spouse, William
2 Summerson. Former City Manager Roger Swenson, Human Resources Director Jackie
3 Walker and many others from the City attended the wedding. Summerson immediately
4 notified the City of her marriage and her new spouse.

5 14. In February 2002, Summerson applied for a position as the Human
6 Resources Administrator. The Application for Employment form asked "Have you ever
7 been convicted of a felony within the last five years?" Summerson answered "No."

8 15. The application did not ask whether Summerson was associated with any
9 motorcycle clubs, outlaw motorcycle gangs, criminal street gangs, or other individuals
10 who are associated with such organizations.

11 16. In her application, Summerson verified that she understood that she was
12 "required to abide by all rules and regulations of the employer."

13 17. As part of the application process, she verified she had never been
14 convicted of a crime.

15 18. In April 2002, Walker offered and Summerson accepted the position of
16 Human Resources Administrator, the second highest position in the City's Human
17 Resources Department.

18 19. At that time, Summerson signed an Acknowledgement of Electronic
19 Communications and Internet Access Policy, agreeing to abide by the policy and
20 expressing her understanding that all information in the City's information system is the
21 property of the City and is to be used only for authorized purposes.

22 20. During Summerson's time as the Human Resources Administrator, the
23 Position Description described the Essential Functions of her job to include "Oversee
24 the maintenance of employee master files, and human resources & payroll information
25 systems." Likewise, the position required: "Ability to work with people and develop a
26 trusting working relationship and maintain confidentiality"; "Ability to deal with
27 problems which may be controversial or sensitive in nature and create an atmosphere of
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1 trust and confidentiality in all personnel functions”; and “Ability to maintain
2 confidentiality of employee records and work products.”

3 21. In 2004, Summerson’s husband became a member of the Desert Road
4 Riders Motorcycle Club (“DRRMC”), a family motorcycle club made up of
5 businessmen and other individuals in the community.

6 22. From that point forward, Summerson regularly and openly showed her
7 support for the DRRMC by wearing DRRMC colors and apparel to work and openly
8 discussing her participating in DRRMC events with her co-workers.

9 23. The Desert Road Riders organized in 1991 in Bullhead City, Arizona and
10 describe themselves as a “circle patch family club” that was “formed to promote good
11 will in the communities of the tri-state area.” The club was a charter member of the
12 Arizona Confederation of Motorcycle Clubs (“ACMC”).

13 24. A family motorcycle club is distinct from a “one-percent” club both in its
14 purposes and its apparel. The patches worn by family clubs are a one-piece circle patch,
15 while one-percent clubs wear a three-piece patch with the name across the top piece and
16 the territory across the bottom piece. Members of one-percent clubs also typically wear
17 a “1%” symbol on their apparel, indicating their intent to be outlaws and their choice to
18 be part of the one percent of bikers not committed to society’s rules and laws.

19 25. The DRRMC host and participate in various charitable events. For
20 example, for the past seven years, the DRRMC have hosted the annual “We Care Poker
21 Run” for the purpose of spreading cheer at local retirement homes and collecting
22 donations for the less needy. On December 9, 2012, the DRRMC participated in the
23 ACMC’s 1st Annual Statewide Toy Run to collect toys for underprivileged youth.

24 26. The DRRMC does not knowingly allow convicted felons into their club.

25 27. Throughout her employment from 1996 to 2006, Summerson regularly
26 earned outstanding performance reviews, raises and promotions. In her annual reviews,
27 Summerson consistently was recognized as appropriately maintaining records and files
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1 within her responsibility, treating other employees with respect, and exercising sound
2 judgment. She was consistently rated excellent for her professional loyalty.

3 28. On January 18, 2006, Summerson emailed Walker, notifying her of
4 Summerson's intent to end her employment with the City on June 13, 2006.

5 29. On June 6, 2006, Walker completed the City's Personnel Action form
6 indicating that Summerson resigned effective June 13, 2006 because she was moving
7 out of state to care for her terminally ill father-in-law in Pennsylvania.

8 30. During Summerson's time living in Pennsylvania, Walker and Summerson
9 kept in contact.

10 31. Summerson's father-in-law passed away in 2011.

11 32. In 2011, with full knowledge of Summerson's relationship with her
12 husband and association with the DRRMC, Walker recruited Summerson back to the
13 City to the open position of Human Resources technician.

14 33. The Human Resources Technician Position Description involved the
15 following duties and qualifications: "Work duties require considerable tact and
16 confidentiality in dealing with the public and City personnel"; "Ability to work with
17 people and develop a trusting working relationship and maintain confidentiality";
18 "Ability to deal with problems which may be controversial or sensitive in nature and
19 create an atmosphere of trust and confidentiality in all personnel functions"; and
20 "Ability to maintain confidentiality of employee records and work products."

21 34. Walker concluded that Summerson met all of the requirements of the
22 Human Resources Technician position and offered her the job.

23 35. In her August 2011 Application for Employment, Summerson verified that
24 she had never been convicted of any crime. The application did not ask whether
25 Summerson was associated with any motorcycle clubs, outlaw motorcycle gangs,
26 criminal street gangs, or other individuals who are associated with such organizations.

27 36. Summerson returned to the City's employment as the Human Resources
28 technician on September 19, 2011.

1 37. Upon her return to the City's employment, Summerson again signed a
2 Loyalty Oath swearing or affirming that she "will support the Constitution of the United
3 States and the Constitution of the State of Arizona and its laws: that [she] will bear true
4 faith and allegiance to the same, and defend them against all enemies, foreign and
5 domestic, and that [she] will faithfully and impartially discharge the duties of the office
6 of Human Resources Technician . . ." and she was subjected to a criminal background
7 check.

8 38. Desert Road Rider President James Snider and his wife helped the
9 Summersons move back to Arizona from Pennsylvania and permitted the Summersons
10 to reside with them for a time while the Summersons found a home in Kingman.

11 39. When Summerson started back with the City, Walker actually picked up
12 Summerson from the Sniders' residence.

13 40. In her January 2012 supervisory notes, Walker noted that Summerson
14 "still has confidence of departments."

15 41. In approximately February 2012, City Manager Jack Kramer, Walker and
16 Chief of Police Robert Devries offered to appoint Summerson as the Interim
17 Communications/Dispatch Director for the Kingman Police Department while the
18 position was being re-developed and the recruitment process was being completed.
19 Summerson declined because she was committed to the human resources profession and
20 was in the midst of studying for her Professional in Human Resources certification
21 examination.

22 42. In March 2012, Walker gave Summerson a formal performance
23 evaluation, which was approved by Kramer.

24 43. In the evaluation, Walker lauded Summerson in every respect. For
25 example, regarding Customer Service/Professionalism/Respect, Walker stated: "Melissa
26 has re-assimilated herself well back into the City . . . Melissa's interactions with her co-
27 workers and other internal and external customers is pleasant and professional. Her
28 customer service skills are exceptional."

1 44. In the evaluation, Walker recognized Summerson's integrity, stating that
2 Summerson met the expectation that she maintain "high standards of honesty and
3 overall integrity [and] can be trusted with confidential information."

4 45. In June 2012, Summerson completed the long process to obtain her
5 certification as a Professional in Human Resources by passing the certification test.

6 46. In October 2012, Summerson told another City employee that her husband
7 would not be welcome to ride in a law enforcement-sponsored toy run due to his
8 membership in the DRRMC because the sponsors did not allow "colors" on their run.

9 47. Subsequently, on October 25, 2012, Police Chief DeVries emailed Captain
10 Scott Wright a copy of a webpage from the ACMC website, indicating the member
11 clubs, associates, and friends/guests/supporters.

12 48. On November 17, 2012, Summerson, her husband and another member of
13 the DRRMC were pulled over by a Kingman Police Officer Joe Weber for allegedly
14 speeding on their motorcycles while returning from a funeral. After discussing the
15 incident with the three of them, Officer Weber gave them each a warning for excessive
16 speed.

17 49. Immediately following the incident, Summerson reported to the Human
18 Resources Administrator Linda Semm that the incident had occurred and that she felt
19 that Officer Weber had treated Summerson in a condescending manner when
20 Summerson objected that she had not been driving 50 miles per hour in a 40 mile-per-
21 hour speed zone.

22 50. Semm told Summerson that if she thought it was necessary, she should
23 contact Officer Weber's supervisor Shay Weber, but Summerson chose not to pursue it.

24 51. After the November 17, 2012 incident, Sergeant Shay Weber sent a
25 memo to Captain Rusty Cooper regarding the traffic stop and regarding Summerson's
26 association with her husband and the DRRMC and her husband's membership in the
27 DRRMC.

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1 52. Sergeant Weber's memo attached a memo prepared by Officer Joe Weber
2 regarding the November 17, 2012 traffic stop that he initiated. In his memo, Officer
3 Weber noted that Summerson's spouse was courteous and honest.

4 53. On November 19, 2012, Donald A. Doughty sent a memo to Lieutenant
5 Chastain regarding a 2011 event in which Summerson had identified her friendship with
6 James Snider, the President of the DRRMC and how Snider had assisted with their
7 move back to Arizona and securing their current home—facts already well known to
8 Walker.

9 54. Doughty's memo went on to describe a June 2012 incident in which he
10 witnessed Summerson selling DRRMC raffle tickets and an October 2012 incident in
11 which he claims Summerson acknowledged that her husband would not ride in the law
12 enforcement sponsored poker run due to his membership in DRRMC.

13 55. According to Doughty's memo, based on the alleged trend of outlaw
14 motorcycle gang members having their wives, girlfriends, sisters, or other acquaintances
15 obtain employment in positions where sensitive information may be found, Doughty
16 conducted an investigation regarding Summerson at the request of Captain Wright.

17 56. Doughty checked with the Arizona Department of Public Safety's Access
18 Integrity Unit and determined that Summerson did not have a Terminal Operator
19 Certification and therefore was limited in her access to sensitive information.
20 According to Doughty, Summerson "may, however, have access to background and
21 criminal history information if her position involves the hiring of new employees."

22 57. In his memo, Doughty acknowledged that "there is no known DPS Policy
23 which restricts the employment of family members related to members of motorcycle
24 and/or street gangs . . . [and he] was advised that in some situations, the activity of
25 employees has been monitored to check for possible privacy violations."

26 58. In his memo, Doughty noted that Summerson had been seen wearing
27 DRRMC support clothing on the DRRMC website and on the social media site
28 Facebook.

1 59. In fact, on November 1, 2012, Summerson posted a photo of her and her
2 husband from a bike night event in which Summerson was wearing DRRMC support
3 colors and her husband was wearing his patched vest. That day, Walker commented on
4 the photo: "Love this pic of you two!"

5 60. At 2:00 p.m. on November 27, 2012, Police Chief DeVries and Walker
6 had a meeting regarding Summerson at the Kingman Police Department.

7 61. On November 28, 2012, DeVries sent Walker an email indicating that
8 Captain Wright obtained information from the GIITEM Task Force.

9 62. On December 3, 2012, Walker discussed Summerson with City Attorney
10 Carl Cooper.

11 63. On December 5, 2012, Cooper sent DeVries, Walker and Wright an email
12 to set up a proposed meeting on December 10 or 11, 2012 to discuss Summerson. All
13 parties agreed to meet on December 10 at 1:00 p.m. and met at that time in Cooper's
14 office.

15 64. On December 12, 2012, Cooper and Walker exchanged emails about
16 meeting that day to discuss Walker's "employee problem" referring to Summerson.
17 Cooper and Walker met that morning and discussed Summerson.

18 65. On December 13, 2012, Walker emailed herself draft language stating
19 "You are an associate of a documented Criminal Street Gang, Desert Road Riders a
20 documented support club of the Hell's Angels, under A.R.S. 13-105. As such, your
21 association with Criminal Street Gangs causes us great concern. Because Criminal
22 Street Gangs are known to have strict rules which controls [sic] the behavior and
23 functions of its members, your access to confidential information is in direct conflict
24 with the role of Human Resources."

25 66. On December 26, 2012, Walker and Kramer signed the City's Personnel
26 Action form, approving the placement of Summerson on paid administrative leave until
27 5:00 p.m. on December 28, 2012.
28

1 67. On December 26, Walker delivered to Summerson a Notice of Intent to
2 Terminate Summerson's employment effective December 28, 2012.

3 68. In the Notice of Intent to Terminate, Walker did not allege that
4 Summerson had performed her job poorly or that Summerson had engaged in any
5 misconduct.

6 69. In the Notice of Intent to Terminate, Walker gave as the sole reason for the
7 termination that Summerson was associated with the DRRMC and characterized the
8 DRRMC as a "documented criminal Outlaw Motorcycle Gang (OMG)" and "a support
9 club of the Hell's Angels, which is a criminal street gang as defined by ARS 13-105."

10 70. Despite that Summerson had provided more than eleven years of
11 exemplary service to the City and over five years in human resources preserving the
12 sensitive information of City employees, including those in law enforcement, legal,
13 dispatch and the judicial system, Walker claimed that Summerson's association with the
14 DRRMC severely jeopardized the security of sensitive employee information impacting
15 the integrity of the Human Resources/Risk Management department and the safety of a
16 large segment of city employees and their families.

17 71. When Walker delivered the Notice of Intent to Terminate, Summerson
18 asked Walker if Summerson could keep her job if her husband resigned from the
19 DRRMC. Walker said no.

20 72. Prior to that time, no one from the City had expressed any concern to
21 Summerson regarding the DRRMC or her husband's membership in the club.

22 73. Prior to that time, no one had expressed any concern regarding
23 Summerson's ability to protect sensitive information or maintain confidentiality.

24 74. Likewise, no one had interviewed Summerson regarding her or her
25 husband's association with the motorcycle club.

26 75. Indeed, everyone in the Human Resources department and many
27 employees in the Police Department and other departments knew of Summerson's
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1 association with her husband and with the DRRMC. Many had purchased raffle tickets
2 from Summerson for the DRRMC raffle benefitting various charitable organizations.

3 76. On December 27, 2012, Summerson attended a six-minute pre-action
4 hearing and provided her rebuttal to the Notice of Intent to Terminate.

5 77. In her rebuttal, Summerson stated, among other things, that City
6 employees including police officers of all ranks were aware of her association with the
7 DRRMC since 2004.

8 78. Summerson also rebutted the allegations regarding the nature of the
9 DRRMC as a “support club of the Hell’s Angels.” She corrected Walker’s false
10 statement that the DRRMC were an “Outlaw Motorcycle Gang”, which the United
11 States Department of Justice describes as “organizations whose members use their
12 motorcycle clubs as conduits for criminal enterprises.”

13 79. Likewise, Summerson reaffirmed her commitment to honesty, integrity,
14 confidentiality, respect, professionalism, and the protection of sensitive information—a
15 commitment that the City had frequently recognized and never before questioned.

16 80. Subsequently, at 3:14 p.m. on December 27, 2012, Walker emailed
17 Cooper an attachment from the FBI’s website regarding gang sophistication and gang
18 infiltration of corrections, law enforcement, and government in various parts of the
19 country. The attachment reported that gang members in at least 57 jurisdictions have
20 applied for or gained employment within judicial, police or correctional agencies.
21 Likewise, the attachment reported that gang members in at least 75 jurisdictions have
22 compromised or corrupted judicial, law enforcement, or correctional staff within the
23 past three years.

24 81. Nothing in the report implicated Summerson, her husband, the DRRMC or
25 anyone in Arizona of any of the alleged conduct.

26 82. At 5:35 p.m. on December 27, 2012, Walker emailed Summerson a letter
27 notifying her that the City was upholding the decision to terminate Summerson’s
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1 employment effective at 5:00 p.m. on December 28, 2012. Walker copied Kramer and
2 Cooper on the letter.

3 83. In that letter, Walker stated that “My decision is supported by the fact that
4 employees of the City’s law enforcement, legal, dispatch, and court system are
5 apprehensive in continuing their work relationship with the human resources/risk
6 management department. The association with a documented OMG severely jeopardizes
7 the security of confidential employee information and the safety of this large segment of
8 our workforce. The loss of a close and trusting relationship with these employees is a
9 significant disruption to the efficiency of the services human resources/risk management
10 provides.”

11 84. Kramer approved or ratified the termination of Summerson’s employment
12 and indicated his approval by signing the City’s Personnel Action form on December
13 28, 2012.

14 85. The City violated its own written policies in terminating Summerson’s
15 employment.

16 86. Notably, the City’s Personnel Action form related to the termination
17 indicated that Summerson was eligible for rehire “with review.”

18 87. The City’s policies provide that the City Manager is the final
19 policymaking authority on personnel matters.

20 88. According to the City of Kingman’s Personnel Rules and Regulations, the
21 City Manager is the policymaking authority in the formulation of personnel policies, to
22 prescribe policies, and administer policies and procedures with the aim of facilitating
23 personnel administration for the City departments.

24 89. According to the City of Kingman’s Personnel Rules and Regulations, the
25 City Manager will be ultimately responsible for maintaining the appropriate discipline
26 among city employees and accomplishing such other personnel matters as deemed
27 appropriate.

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1 90. According to the City of Kingman's Personnel Rules and Regulations, the
2 City has no desire to become involved in the personal lives of employees and employee
3 personal relationships, whether involving other employees, family members, or other
4 individuals, on their personal time and off City property are outside the City's area of
5 responsibility.

6 91. According to the City of Kingman's Personnel Rules and Regulations, the
7 City will become involved and take appropriate action only if a supervisor engages in a
8 personal relationship with a subordinate or problems resulting from personal
9 relationships manifest themselves on the job.

10 92. At 12:40 p.m. on December 28, Summerson requested a copy of the
11 documentation that Walker had referenced in the pre-action hearing allegedly stating
12 that the DRRMC were an outlaw motorcycle gang.

13 93. In response, Walker forwarded the email to Cooper asking for advice on
14 how to respond to the request and indicating that she is only aware of A.R.S. § 13-105
15 and a memo from Officer Doughty to Lieutenant Chastain stating that the DRRMC are
16 classified as an OMG in the state of Arizona.

17 94. At 2:49 p.m., Walker emailed herself a Press Release from the Arizona
18 Department of Public Safety dated December 3, 2009 regarding the arrest and search
19 warrants issued related to members of the Hell's Angels and two alleged DRRMC
20 members, Clifford Ballentine and Snider.

21 95. On January 2, 2013, Cooper responded to the request and emailed
22 Summerson a December 16, 2009 Information Report by a Detective Morris that Cooper
23 asserted "indicates the illegal activities of the Desert Road Riders and its designation as
24 gang per state statutes."

25 96. In the 2009 Information Report, Detective J.D. Morris asserted that "the
26 Desert Road Riders MC was founded in 1993 as being dedicated to the well being of the
27 biker community. Their goals were to promote safety, education and freedom for bikers
28

1 and their families. The Desert Road Riders MC achieved a non-profit status in and was
2 incorporated in 2000.”

3 97. In the 2009 Information Report, Detective Morris asserted that “In 2002
4 The Desert Road Riders MC voted to support the Hell’s Angles [sic] MC . . . [and] The
5 Desert Road Riders became a member to the Arizona Confederation of Motorcycle
6 Clubs (ACMC).”

7 98. According to the ACMC Mission Statement on its website, “The ACMC is
8 made up of Arizona Motorcycle Clubs and Organizations which have come together in
9 unity to facilitate and broaden communication amongst its Members, within the riding
10 community and general public. It serves to educate both riders and the non-riding
11 public on all of the positive aspects of motorcycling and to warn against and oppose any
12 intrusion(s) upon their rights to live and ride free. Its goals are to promote and protect
13 motorcyclist’s rights. It will accomplish these goals by any lawful means necessary.
14 The ACMC does not approve organizations, or in our language ‘sanction’, Clubs. The
15 ACMC Members are a select group of Elite Clubs and Organizations who have banded
16 together in a fight for freedom and stand in defense of American rights, especially MC
17 Clubs, and all Motorcyclists.”

18 99. The ACMC’s lawful efforts to promote and protect motorcyclists’ rights,
19 fight for freedom and stand in defense of American rights for motorcycle clubs and
20 motorcyclists are protected expression under the First Amendment of the United States
21 Constitution.

22 100. To the extent the DRRMC voted to support the Hells Angels MC, such an
23 expression of support is protected speech under the First Amendment of the United
24 States Constitution.

25 101. In the 2009 Information Report, Detective Morris claims that “From 2002
26 to Present the Desert Road Riders MC have [sic] pulled away from the original friendly
27 relationship that was once established with Law enforcement and have taken on a ‘One
28 Percent Club’ Mentality.”

1 102. In the 2009 Information Report, Detective Morris alleges that in July
2 2008, DRRMC then-President Clifford Ballentine was arrested while wearing his
3 DRRMC “Colors” and charged with two Felony drug charges.

4 103. In the 2009 Information Report, Detective Morris alleges that in June 2009
5 DRRMC then-President Ballentine and then-Sergeant at Arms Snider participated with
6 members of the Hells Angels MC in a fight with the VAGOS MC, and that Ballentine,
7 Snider and others were charged with Felony Crimes in connection with the fight.

8 104. Ballentine left the DRRMC in 2009 to join a One-Percent club.

9 105. By April 2012, all charges against Ballentine and Snider related to the
10 alleged fight were dismissed by the prosecutor.

11 106. Based on the above events alleged in the 2009 Information Report,
12 Detective Morris asserted that “the Desert Road Riders MC have met the criteria of a
13 Criminal Street Gang as defined in ARS 13-105.8, therefore the Desert Road Riders MC
14 will be documented as [a] Criminal Street Gang.”

15 107. According to A.R.S. § 13-105.8, a “criminal street gang” is defined as “an
16 ongoing formal or informal association of persons in which members or associates
17 individually or collectively engage in the commission, attempted commission,
18 facilitation or solicitation of any felony act and that has at least one individual who is a
19 criminal street gang member.”

20 108. In October 2009, the President of the Knights of the Patriot Motorcycle
21 Club sent City Mayor John Salem an email forwarding a message from the Chair of the
22 ACMC regarding a then-upcoming event in Kingman involving many bikers from many
23 clubs. In the email to Salem, the individual stated that the event was being organized by
24 the DRRMC for the purpose of trying to get the City to make wrong moves to file law
25 suits against the City and many of its establishments that post a “no colors” policy.

26 109. To the extent the DRRMC engaged in lawful assembly for the purpose of
27 protesting the “no colors” policy, such assembly and protest would be protected
28 assembly/speech under the First Amendment.

1 110. On January 4, 2013, Walker emailed Semm regarding Summerson's
2 termination, stating that "The reasons for termination is [sic] not gross negligence rather
3 due to disruption and efficiency of services we provide."

4
5 **COUNT ONE**
6 **(Violation of Freedom of Association**
7 **Under 42 U.S.C. § 1983)**

8 111. Summerson incorporates by reference all previous allegations as though
9 set forth fully herein.

10 112. At all times, Defendant was acting under color of state law.

11 113. As described above, Summerson's association with her husband William
12 Summerson was the sole reason and/or a substantial or motivating factor in
13 Defendant's decision to terminate her employment.

14 114. Defendant violated Summerson's freedom of association under the First
15 and Fourteenth Amendments to the United States Constitution by terminating
16 Summerson's employment.

17 115. When Defendant terminated Summerson's employment based on her
18 protected association with her husband, it did so pursuant to an official custom,
19 practice or policy in that the decision was approved and/or ratified by Kramer, the City
20 Manager and final policymaker for personnel decisions.

21 116. In engaging in the above conduct, Defendant violated 42 U.S.C. § 1983.

22 117. As a result of Defendant's conduct, Summerson has suffered and
23 continues to suffer damages including lost income, lost retirement benefits, other lost
24 benefits, mental anguish, emotional distress, pain and suffering, humiliation,
25 inconvenience, harm to reputation and loss of enjoyment of life, all in an amount to be
26 proven at trial.
27
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COUNT TWO
(Violation of Freedom of Association
Under 42 U.S.C. § 1983)

118. Summerson incorporates by reference all previous allegations as though set forth fully herein.

119. At all times, Defendant was acting under color of state law.

120. As described above, Summerson's association with the DRRMC was the sole reason and/or a substantial or motivating factor in Defendant's decision to terminate her employment.

121. Defendant violated Summerson's freedom of association under the First and Fourteenth Amendments to the United States Constitution by terminating Summerson's employment.

122. When Defendant terminated Summerson's employment based on her protected association with the motorcycle club, it did so pursuant to an official custom, practice or policy in that the decision was approved and/or ratified by Kramer, the City Manager and final policymaker for personnel decisions.

123. In engaging in the above conduct, Defendant violated 42 U.S.C. § 1983.

124. As a result of Defendant's conduct, Summerson has suffered and continues to suffer damages including lost income, lost retirement benefits, other lost benefits, mental anguish, emotional distress, pain and suffering, humiliation, inconvenience, harm to reputation and loss of enjoyment of life, all in an amount to be proven at trial.

125. Summerson demands a jury trial on all claims and issues set forth herein.

WHEREFORE, Plaintiff Melissa Summerson prays for judgment against Defendant City of Kingman as follows:

A. For an award of economic damages in an amount sufficient to make Plaintiff whole for past and future lost income and benefits and other economic losses suffered by Plaintiff resulting from Defendant's conduct;

- 1 B. For an award of other compensatory damages for mental anguish,
2 emotional distress, pain and suffering, humiliation, inconvenience, harm to
3 reputation, loss of enjoyment of life and other losses incurred by Plaintiff
4 as a result of Defendant' conduct;
- 5 C. For an award of attorneys' fees and related expenses;
- 6 D. For an award of prejudgment and post-judgment interest;
- 7 E. For an award of Plaintiff's costs of suit incurred herein; and
- 8 F. For an award of such other relief as the Court may deem just and proper.

9 DATED this 9th day of May, 2013.

10 ROBAINA & KRESIN PLLC

11 By /s/David C. Kresin
12 David C. Kresin
13 Attorneys for Plaintiff Melissa Summerson